



OFFICE OF THE POLICE COMMISSIONER

ONE POLICE PLAZA • ROOM 1400

March 24, 2011

Memorandum for: Deputy Commissioner, Trials

Re: **Police Officer George Chin**
Tax Registry No. 915446
107 Precinct
Disciplinary Case No. 86291/10

The above named member of the service appeared before Assistant Deputy Commissioner Robert W. Vinal on August 23, 2010 and was charged with the following:

DISCIPLINARY CASE NO. 86291/10

1. Police Officer George Chin, assigned to the Firearms and Tactics Section, on December 10, 2008, while on-duty, entered an office at the Avenue X Range in Kings County, New York, and while attempting to unload a round from the chamber of his Sturm-Ruger mini-14 firearm, failed to safeguard said firearm resulting in a discharge of one round from the firearm.

P.G. 204-08, Page 2, Paragraph 7 FIREARMS - GENERAL REGULATIONS

2. Police Officer George Chin, a firearms instructor assigned to the Firearms and Tactics Section, on December 10, 2008, while on-duty at the Avenue X Range in Kings County, New York, failed to properly safeguard his firearm by storing a loaded Sturm-Ruger mini-14 firearm in his locker, contrary to instructions and training.

P.G. 204-08, Page 2, Paragraph 7 FIREARMS - GENERAL REGULATIONS

3. Police Officer George Chin, a firearms instructor assigned to the Firearms and Tactics Section, on December 10, 2008, while on-duty at the Avenue X Range in Kings County, New York, failed to properly safeguard his firearm in that Police Officer George Chin did not follow Department instructions that he received as a firearms instructor by wrongfully attempting to unload his Sturm-Ruger mini-14 firearm while not at a safety station or at a range.

P.G. 204-08, Page 2, Paragraph 7 FIREARMS - GENERAL REGULATIONS

In a Memorandum dated October 8, 2010, Assistant Deputy Commissioner Vinal accepted the Respondent Pleading Guilty to all Specifications. Having read the Memorandum and analyzed the entire facts of this instant matter, I approve the findings, but disapprove the recommended penalty of 10 Vacation days.

P.O. GEORGE CHIN

DISCIPLINARY CASE NO. 86291/10

The Respondent's actions here (*and lack thereof*) resulted in the discharge of one round from a rifle which he should have unloaded at a firearm safety station, in accordance with proper procedure. As an instructor at the Firearms and Tactics Section, and being a N Y S certified firearms instructor the Respondent did not engage in appropriate conduct expected of him. Therefore, as the disciplinary penalty for this matter, Respondent Chin is to forfeit 15 (*fifteen*) Vacation days.



Raymond W. Kelly
Police Commissioner



POLICE DEPARTMENT

October 8, 2010

MEMORANDUM FOR: Police Commissioner

Re: Police Officer George Chin
Tax Registry No. 915446
107 Precinct
Disciplinary Case No. 86291/10

The above-named member of the Department appeared before me on August 23, 2010, charged with the following:

1. Police Officer George Chin, assigned to the Firearms and Tactics Section, on December 10, 2008, while on-duty, entered an office at the Avenue X Range in Kings County, New York, and while attempting to unload a round from the chamber of his Sturm-Ruger mini-14 firearm, failed to safeguard said firearm resulting in a discharge of one round from the firearm

P.G. 204-08, Page 2, Paragraph 7 – FIREARMS – GENERAL REGULATIONS

2. Police Officer George Chin, a firearms instructor assigned to the Firearms and Tactics Section, on December 10, 2008, while on-duty at the Avenue X Range in Kings County, New York, failed to properly safeguard his firearm by storing a loaded Sturm-Ruger mini-14 firearm in his locker, contrary to instructions and training.

P.G. 204-08, Page 2, Paragraph 7 – FIREARMS – GENERAL REGULATIONS

3. Police Officer George Chin, a firearms instructor assigned to the Firearms and Tactics Section, on December 10, 2008, while on-duty at the Avenue X Range in Kings County, New York, failed to properly safeguard his firearm in that Police Officer George Chin did not follow Department instructions that he received as a firearms instructor by wrongfully attempting to unload his Sturm-Ruger mini-14 firearm while not at a safety station or at a range.

P.G. 204-08, Page 2, Paragraph 7 – FIREARMS – GENERAL REGULATIONS

The Department was represented by Scott Rosenberg, Esq , Department Advocate's Office, and the Respondent was represented by Cary London, Esq

The Respondent, through his counsel, entered pleas of Guilty to the subject charges. A stenographic transcript of the mitigation hearing record has been prepared and is available for the Police Commissioner's review.

DECISION

The Respondent, having pleaded Guilty, is found Guilty.

EVIDENCE IN MITIGATION

The Respondent, who was appointed to the Department on June 30, 1995, testified that he was assigned to the Firearms and Tactics Section as an instructor after he completed coursework and was deemed a New York State certified firearms instructor.

On December 10, 2008, he was on-duty at the Avenue X Range (the range) in Brooklyn preparing the range for a recruit low-light course when his sergeant handed him the firearms inventory sheet and directed him to look at the serial numbers on the two firearms he kept at the range to insure that the numbers matched the serial numbers listed on the firearms inventory sheet. He went to his locker, where he safeguarded his two firearms, removed the two firearms and carried them into his office. He testified that as of December 10, 2008, there was no set Department policy as to where verification of serial numbers on firearms could take place.

When he looked at his Sturm-Ruger mini-14 firearm, he saw that the bolt was closed which indicated to him that it was possible that there was a round in the chamber.

of the firearm. He retracted the bolt and observed that there was a round in the chamber. He had not used his Sturm-Ruger mini-14 firearm since May, 2008, and he had believed that it was unloaded because he always unloads his firearms before he puts them into his locker. He started to retract the bolt further so that the round in the chamber would fall out. He tried to do this in a manner that would allow him to catch the round so that it would not fall to the floor and be damaged and rendered useless. As he retracted the round, it slipped through his fingers. As he tried to recover it and grab the bolt at the same time, his finger struck the trigger and the firearm discharged.

The round went through a window in his office. He put the Sturm-Ruger mini-14 down and peered out his window to see if the round had hit anyone or if it had hit the building that was opposite the window, about 15 to 20 yards away. Since he did not see anyone or hear anything, he left his office and notified his supervisors about the accidental discharge. While his lieutenant began making notifications, he and his sergeant went outside to try to determine where the round had landed. As best they could determine, the round had struck the far wall of a Transit facility which was known as the battery building because batteries were stored there. Although his duty status was not changed, he was transferred to the 107 Precinct.

On cross-examination, he confirmed that at the time of this discharge he was aware that his Sturm-Ruger mini-14 firearm was only permitted to be unloaded at a safety station or at the range and that he had ignored this rule when he attempted to unload it in his office. He also confirmed that the round that he discharged from his Sturm-Ruger mini-14, because it is a rifle, is more powerful than a round discharged from a standard 9-millimeter firearm and that he was not careful in handling his rifle.

PENALTY

In order to determine an appropriate penalty, the Respondent's service record was examined. See *Matter of Pell v Board of Education*, 34 N Y 2d 222 (1974)

The Respondent was appointed to the Department on June 30, 1995. Information from his personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

The Assistant Department Advocate (the Advocate) recommended that the Respondent forfeit 20 vacation days. The Advocate stated that this is the standard penalty in failure to safeguard cases, even in cases where a member has merely misplaced a firearm. The Advocate did not cite any previous disciplinary cases to support his contention.

The Respondent is a 15-year member, with no prior disciplinary record, who accidentally discharged his Sturm-Ruger mini-14 firearm as he was attempting to remove a round of ammunition from the firearm while he was inside a building adjacent to an outdoor Department range. Although the round went through a window, it did not hit anyone.

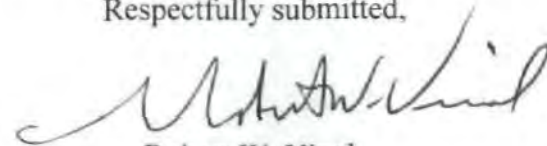
In Disciplinary Case No. 81905/06 (signed on December 18, 2006), an 11-year member who had no prior disciplinary record forfeited ten vacation days after he pleaded guilty to failing to safeguard his service firearm while he was attempting to remove ammunition from the firearm which resulted in an accidental discharge.

More recently, in Disciplinary Case No. 85938/09 (signed on July 1, 2010), a 28-year police officer who had no prior disciplinary record forfeited seven vacation days after he pleaded guilty to failing to safeguard a detective's firearm while he was repairing

the firearm in the detective's presence. In that case, as here, the Respondent was assigned to the Firearms and Tactics Section, his failure to safeguard took place inside a building which was adjacent to an outdoor Department range, and his failure resulted in the accidental discharge of one round from the firearm. However, in that case, the round passed through a metal workstation causing metal fragments to hit the detective in his buttocks, thighs and scrotum. The detective was hospitalized and temporarily removed from active duty status because of his injuries.

It is recommended that the Respondent forfeit ten vacation days.

Respectfully submitted,



Robert W. Vinal
Assistant Deputy Commissioner - Trials



POLICE DEPARTMENT
CITY OF NEW YORK

From Assistant Deputy Commissioner - Trials
To Police Commissioner
Subject CONFIDENTIAL MEMORANDUM
POLICE OFFICER GEORGE CHIN
TAX REGISTRY NO 915446
DISCIPLINARY CASE NO 86291/10

The Respondent received an overall rating of 4.0 on his 2008 performance evaluation, 3.5 on his 2007 evaluation and 4.0 on his 2006 evaluation. He has no medals [REDACTED] He has no prior formal disciplinary record.

For your consideration



Robert W. Vinal
Assistant Deputy Commissioner - Trials